

Minutes

Board of County Commissioners Hyde County

February 2, 2009

Chairman Tom Davis called the Regular meeting of the Hyde County Board of Commissioners to order at 7:00 PM on Monday, February 2, 2009 in the Multi-Use Room, Government Center, Swan Quarter. The following members were present: Anson Byrd, Gene Ballance, Tom Davis, Sharon Spencer, and Barry Swindell. Also present were County Manager Carl Classen; County Attorney Sid Hassell; Clerk to the Board Lois Stotesberry; and members of the public.

Following a pledge of allegiance and opening prayer by Commissioner Byrd the meeting was called to order.

Agenda:

Chairman Davis asked for any changes to the February 2, 2009 meeting Agenda as presented by the Clerk. Chairman Davis asked to be excused during discussion of Item V. D. – Revolving Loan Fund Approval Recommendation due to conflict of interest. Mr. Davis moved to add Item V. J. – Ocracoke Community Square Property and to accept the Agenda as presented by the Clerk. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Consideration of Minutes:

Chairman Davis asked for approval of meeting minutes.

Commissioner Byrd moved to approve the January 5, 2009 meeting minutes with corrections made on page 2, line 23 and 26 stating *improve banking of the curve*; page 3, line 25 stating *to the extent permissible*; and page 12, line 32 stating *Commissioner Byrd*; and to approve the January 6, 2009 special meeting minutes, and the January 12 meeting minutes as presented by the Clerk. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Public Hearing – Closeout CDBG 05-E-1495 – Hyde Davis Business Enterprise Center:

Commissioner Swindell moved to open public hearing on Closeout CDBG 05-E-1495 – Hyde Davis Business Enterprise Center. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Larry Moolenaar, Executive Director, Eastern Carolina Council, spoke to the closeout of the \$201,000 Community Development Block Grant for Economic Development as administered for the North Carolina Department of Commerce. Mr. Moolenaar reported that funds were used to construct additional office space, upgrade wiring, install heating/air conditioning, upgrade communications/computer networks, subdivide training space, and repave the parking lot at the Hyde Davis Business Enterprise Center located at 33460 US 264 in Engelhard, North Carolina. One-hundred percent of the funds for the project came from the Community Development Block Grant. The facility is managed by the Hyde County Community Development Corporation.

Hearing no comment from the public, Commissioner Swindell moved to close the public hearing. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Public Comments:

Chairman Davis called for comments from the public.

Glen Hockney, Middletown – stated the Engelhard Water Treatment Plant permit has been issued and financing accomplished, but there was no listing of discharge monitoring.

Franklin Swindell, Engelhard – thanked the Board for recent solid waste changes; stated he opposes the \$150.00 water re-activation fee; asked when he should expect a response to his questions; and stated that a quarterly financial statement should be provided to citizens.

There being no further public comment, Chairman Davis continued the meeting.

June 30, 2008 Hyde County Fiscal Year-End Audit Report – Pittard Perry & Crone, Inc.:

Jeff Best, CPA, Pittard Perry & Crone, Inc., presented the June 30, 2008 Hyde County Fiscal Year-End Audit Report. Mr. Best commended Jessica Gibbs, Finance Officer, and her staff for their performance over the past fiscal year.

Ordinances and Resolutions:

Planning Board Ordinance

On January 2, the Commissioners directed that a draft Planning Board Ordinance be prepared. During work on the codification project, it was found that Hyde County approved (1988) creation of Planning Board consisting of the County Commissioners. The Commissioners will re-visit this topic at a later date and decide whether to continue with the current law or suggest changes, which can be drafted into an amending ordinance.

Appointments:

Northeastern Workforce Investment Consortium

Commissioner Byrd moved to appoint Commissioner Sharon Spencer as representative to the Northeastern Workforce Investment Consortium. Mr. Davis seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Other Matters:

Budget Revisions and Transfers

County Manager Carl Classen reported to the Board that in accordance with the FY2007-08 Budget Ordinance several budget transfers were made administratively and he requested approval of the following:

A. Budget Amendment – Department of Social Services – Crisis Intervention

Department of Social Services Director Gloria Spencer has requested additional funding authorization of (\$17,892.00) beyond that which was approved January 5 to the Department of Social Services for Crisis Intervention.

Commissioner Swindell moved to authorize the Department of Social Services budget transfer of \$17,892.00. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

B. Budget Amendment – Cooperative Extension – 4-H Agent Computer

Cooperative Extension Director Mac Gibbs has requested authorization of transfer of (\$1,718.60) funds available in Cooperative Extension salaries budgeted to equipment for replacement of a computer for use by the 4-H agent.

Commissioner Swindell moved to authorize the Cooperative Extension Department budget amendment of \$1,718.60. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

CDBG-CB Fair Housing Plan Extension

The current Fair Housing Plan covered the period from October 1, 2006 through September 30, 2008. The updated plan covers the period October 1, 2008 through June 30, 2010. An approved Fair Housing Plan is a requirement of the CDBG program. The plan identifies obstacles to furthering fair housing, lists quarterly fair housing activities, and describes the County's method of receiving and resolving discrimination complaints.

Commissioner Byrd moved to approve and authorize the Chairman to execute the CDBG-CB Fair Housing Plan. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

CDBG Capacity Building Update

Larry Moolenaar reported this Community Development Block Grant was awarded to assist the Hyde County Community Development Corporation (CDC) to develop capacity in the area of affordable housing. The CDC has hired Mike Adams, who is attending housing related training and assisting Hyde County citizens with home rehabilitation under the USDA Section 504 Program.

No action required.

Conflict of Interest

Commissioner Swindell moved to excuse Chairman Davis from consideration of revolving loan fund request for Christopher L. Williams due to conflict of interest. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell; Nays – None; Absent or Not Voting – Davis.

Commissioner Davis left the room.

Approval of Revolving Loan Fund Request for Christopher L. Williams

Hyde County Planner Alice Keeney reported that Christopher L. Williams is purchasing the Red & White Food Store in Engelhard from Mr. Billy Farrow. Mr. Williams has approached the Hyde County Revolving Loan Fund and East Carolina Bank to purchase, renovate, and stock the grocery store, which is a mainstay in the Engelhard Community.

East Carolina Bank and the County of Hyde have worked together to structure a loan package that will allow the bank to lend \$250,000.00 to purchase the grocery store and the County of Hyde to lend \$150,000.00 to make renovations and stock inventory for the store. All loans will be secured by real estate, inventory, and assets of the business and all loans will be cross-collateralized and cross-defaulted.

It is important to note that Hyde County is very large geographically but is the second less populated county in the State of North Carolina. The 2000 Census depicted a poverty rate of 15.4% and it is estimated that approximately 20% of households within the county do not own a car. Both Engelhard and Swan Quarter are LMI (low/moderate income) Communities. If the Red & White Grocery closes, many will have to pay someone to drive them to Belhaven, Washington, Columbia, Chris's Grocery or the beach (Nags Head, Manteo) to purchase major groceries (not available at Dollar General or convenience stores). The Red & White has been in business since the 1960's and is a mainstay of community life in Engelhard. It is important to have grocery stores to support the Engelhard and Swan Quarter Communities and to stabilize Hyde County's Sales Tax Revenue.

Christopher Lee Williams is currently the sole proprietor of Chris's Grocery in Swan Quarter. Mr. Williams started a produce stand, "Chris's Fresh Veggies," at the age of eleven and has been in business since that time. Before he could drive, he employed several persons, including drivers for Chris's Fresh Veggies. On June 13, 2003, Chris's parents, Joseph C. Williams, III and Virginia G. Williams borrowed funds to purchase a refrigerated truck for Chris's Fresh Veggies to deliver produce. The loan paid off several months ahead of schedule and was paid in full on February 2, 2008.

In 2005, Christopher Lee Williams decided to purchase the old Clover Farm Store, located at 13221 US 264 in Swan Quarter, NC. Within the past year, he has enlarged the store and is now using the services of Nash Finch, a major supplier, so that he can be more competitive in pricing. Mr. Williams' parents currently help manage Chris's Grocery while he is working on his delivery business. It is important to note that Hyde County Mainland has only two major grocery stores, Chris's Grocery in Swan Quarter and the Red and White in Engelhard.

Christopher Williams also applied for funds from the CDBG-SBEA Grant to make improvements to the hardware store next door to the grocery store in Swan Quarter. With those funds, Mr. Williams is in the process of making improvements, including replacing the roof and paving the parking lot for the property located at 13229 US 264 in Swan Quarter, NC. Chris's Hardware will be a draw to Chris's Grocery as a breezeway entrance will run between the two stores. Plans are to open the hardware store in mid-2009.

Mr. Williams supplies many of the restaurants and grocery stores on the Outer Banks with fresh vegetables from Chris's Produce. His current customer base for Chris's Produce includes Burrus Red and White, Conner's Supermarket, Ocracoke Variety Store, Ocracoke Community Store, Martelle's, Becks, Hyde County School System and Chris's Grocery.

All four businesses will contribute significantly to Hyde County's Sales Tax Revenue, Hyde County's Employment Base and quality of life in the Hyde County Community.

On January 27, 2009, the Hyde County Revolving Loan Committee approved a loan in the amount of \$150,000.00 to Christopher Williams, secured by various real estate and business assets, to make improvements and stock inventory in the Red & White Grocery Property located at 25 Lazy Lane in Engelhard. The loan will be cross-collateralized and cross defaulted with East Carolina Bank's loan in the amount of \$250,000.00.

The loan will have a 20 year amortization at an interest rate of 5% and the loan will have a call at the end of five years in order to coincide with the terms of the East Carolina Bank Loan which has a 15 year amortization over a five (5) year term. It is recommended that the County of Hyde offer Mr. Williams an interest only payment option for the first six months, in order to allow time for renovation of the building and getting the business up and running after the improvements. This will also coincide with a six (6) month interest only option that has been offered to Mr. Williams by East Carolina Bank.

Because the County of Hyde and East Carolina Bank's loans will be cross-collateralized and cross defaulted, the Bank and the County will keep each other apprized as to the status of their respective loans. At the end of five years, Mr. Williams will have the opportunity to extend his loan with Hyde County or he may choose to refinance the entire package with another lender.

The Hyde County Revolving Loan Committee unanimously approved the loan and recommends that the Hyde County Board of Commissioners approve the \$150,000.00 loan as presented.

Commissioner Byrd moved to approve the Revolving Loan Committee recommendation and to authorize the Chairman, County Manager, and other county officials to execute documents as necessary in support of the \$150,000.00 loan to Christopher L. Williams. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell; Nays – None; Absent or Not Voting – Davis.

Commissioner Davis returned.

Extension of Performance Bond for Montgomery Road LLC / Hyde-A-Way Shores

Hyde County Planner Alice Keeney reported on September 29, 2005, East Carolina Bank issued a letter of credit in favor of the County of Hyde, to cover the installation of a road at the development of Hyde-A-Way Shores in Currituck Township, Hyde County. The letter of credit was renewed and the County of Hyde granted an extension of the installation of the road until September 28, 2007. Many months before the letter of credit was to expire, the principals of Montgomery Road, LLC requested to substitute a performance bond for the existing letter of credit. On February 5, 2007, the Hyde County Board of Commissioners approved that Montgomery Road, LLC substitute a performance bond in place of the letter of credit and extended the time for the work to be completed until February 27, 2009.

Mr. Tom Chess and Mr. Jerry Gaines are principals of Montgomery Road, LLC which is developing the property at Hyde-A-Way Shores. As Messrs. Chess and Gaines have not been able to obtain all of the permits needed, they have asked that the County of Hyde accept a new performance bond for another year from February 27, 2009, in the amount of 1.25x the amount of a new engineers sealed estimate to build the road.

Commissioner Swindell moved that the County of Hyde accept another performance bond, in a form as approved by the Hyde County Attorney, in an amount equal to 1.25x the engineer's new sealed estimate, to extend the bond for another year in order that the road can be completed. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Traditional Cultural Properties (TCP) – Cape Hatteras National Seashore Recreation Area Spit and Inlet Beaches

Commissioner Ballance asked the Board to join with Dare County and the Town of Nags Head in support of passing and forwarding a resolution to State officials in support of adding spit and inlet areas and adjoining beaches of the Cape Hatteras National Seashore Recreation Areas to the National Park Service National Register of Historic Places (NRHP) as Traditional Cultural Properties (TCPs).

The landscapes identified as TCPs include, but are not necessarily limited to: 1) Bodie Island Spit and adjoining beaches; 2) Cape Point and adjoining beaches; 3) South Point of Hatteras Inlet and adjoining beaches; and 4) the North Point and South Point of Ocracoke Island and adjoining beaches. These are held in importance by Outer Banks communities and their use is central to maintaining the traditional life ways and identity of these communities.

Commissioner Swindell moved to support identification of Cape Hatteras National Seashore Recreation Area Spit and Inlet Beaches as Traditional Cultural Properties (TCP) potentially eligible to the National Register of Historic Places and request for study list application. Mr. Byrd seconded the motion. The motion passed on

the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Revaluation Update

Tax Administrator Linda Basnight gave an update on the Revaluation Project and the corresponding GIS Project. Mrs. Basnight informed the Board that as part of revaluation, the Commissioners have the option of appointing a Board of Equalization and Review different from the County Commissioners.

No action was taken.

GIS Mapping Fee Schedule

E 9-1-1 Database and CAD Administrator/GIS Technician/Telecommunications Coordinator Justin Gibbs reported that in anticipation of the completion of the tax re-evaluation project and the release of the GIS tax mapping data; the Hyde County Tax Office is submitting a GIS Mapping Fee Schedule and GIS Data Disclaimers to the Hyde County Board of Commissioners for approval. After conducting a comparative study of fees for GIS services amongst counties throughout the state, proposed rates were deemed reasonable to assist in funding the production and provision of customized maps to the customers of the tax office. Also, an investigation of the NC General Statutes formed the basis for the Hyde County GIS Data Disclaimers, which will be approved by the County Manager.

Commissioner Swindell moved to approve the Hyde County GIS Mapping Fee Schedule. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Federal Stimulus Project Overview

On January 12, 2009 the Hyde County Board of Commissioners approved a Proposed Stimulus Package for Hyde County. County Planner Alice Keeney gave an update on the federal Economic Stimulus plan and how it may affect Hyde County projects. At this time the House is prepared to approve a version of the plan (H.R. 1) and the Senate will consider it soon. The Economic Stimulus plan, if/after approval by the Senate, will go to a conference committee from which will emerge the final package.

No action was required.

Ocracoke Community Square Property

Commissioner Ballance asked the Board to support the efforts of the Ocracoke Foundation to explore various options to purchase the Community Square property on Ocracoke.

Commissioner Ballance will make application on behalf of the project.

County Commissioners Reports:

Commissioner Swindell will be the guest speaker at the Greater Hyde County Chamber of Commerce issues luncheon on Tuesday, February 10, 2009.

Commissioner Spencer attended the NCACC Legislative Goals conference, Beach Insurance meeting, and the Wind Energy Forum. Ms. Spencer stated she agrees with Glen Hockney that we should require water quality checks.

County Manager Carl Classen reported that the State and County monitor water quality. Public Utilities Director Clint Berry will give report on water monitoring in March.

Commissioner Byrd attended the Albemarle Mental Health Board meeting. Mr. Byrd reported a general manager's group is needed to pull the mental health program back together. Mr. Byrd also attended the Department of Social Services Board meeting.

Commissioner Ballance will attend the final ORV RegNeg meeting later this month. Mr. Ballance reported "Pay-As-You-Throw" is working on Ocracoke.

No other Board or Committee reports were offered so Chairman Davis continued with the Agenda.

County Manager's Report:

Project Reports

County Manager Carl Classen reported on Swan Quarter Dike Project bid opening on February 19; Engelhard Water Treatment Plant; Mattamuskeet Lodge Sewer Project applications submitted; Ocracoke NPS Boat Ramp Project moving forward; Engelhard Airport lighting was damaged by lightening; courthouse parking garage changes; and House and Senate deadlines set for local bills.

Electronic Meeting Project

Commissioner Ballance moved to authorize County Manager Carl Classen to work with The SoundSide Group to install the necessary electronic meeting equipment on Ocracoke and Swan Quarter for a total project cost of \$79,310.00. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

Public Safety Center

Health Director Wesley Smith, Environmental Health Specialist Hugh Watson, and Medical Director Dr. Charles O. Boyette have ordered the Public Safety Center be vacated until the source of employee illnesses in the building is determined and corrected.

County Manager Carl Classen said the health and safety of County employees and citizens visiting the Public Safety Center is priority. An independent HVAC engineer will inspect the building and corrections will be made.

ARSWMA Contract

The County Manager has been advised by ARSWMA staff that the amendment requested by Hyde County has been approved and is being circulated for review (along with two others; see below). The County Manager advised ARSWMA staff that the amendments were acceptable to the County manager but action by the Commissioners could not occur until February 2 (after the January 30 deadline).

From: Laurie Jeffries [mailto:ljeffries@arhs-nc.org]

Sent: Monday, January 26, 2009 3:47 PM

To: BOBBY C DARDEN (E-mail); CHARLES H WARD (E-mail); J PETER RASCOE III (E-mail); TOBY CHAPPELL (E-mail); TERRY WHEELER (E-mail); ROBERT L "BOBBY" OUTTEN (E-mail); ZZ - Scanlon, Dan; CARL CLASSEN (E-mail); W MACK CARAWAN JR (E-mail)

Cc: Ralph Hollowell

Subject: UPDATE ON CONTRACT SIGNING WITH REPUBLIC

This is being sent on behalf of Ralph.

All of the counties have approved with their boards the contract with Republic. There are three minor changes that benefit the Authority. They are: 1) Make an amendment to remove Duck from the contract per their request, 2) Extend the franchise agreement

until July, and 3) If a county creates its own C & D Landfill then they are not bound to dump their C & D at the Bertie County Landfill. Please notify each of your boards of these changes. I also need from each county either an e-mail or back fax to Laurie stating that these changes are okay. The deadline for your response is Friday, January 30, 2009. If you have any further questions then please do not hesitate to contact me. Thank you for your cooperation.

Although ARSWMA staff said it was not necessary, the County Manager feels it important that the Commissioners act on the amendments.

Commissioner Swindell moved to approve amendments to the ARSWMA contract with Republic Industries. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

David's Trash Solid Waste Contract

The County Manager met with Rob Cuthrell, David's Trash, on January 28 to discuss the ARSWMA Solid Waste contract.

Several commissioners have inquired about performing the solid waste hauling utilizing County staff. County Manager Carl Classen discussed applicable laws (GS § 160A-327) regarding such a change.

No action was taken.

Mattamuskeet EMS Project

County Manager Carl Classen reported on the five elements of the Mattamuskeet EMS Project for which staff is seeking quotes, and budget estimate for the project. The County Manager has retained Applied Technologies, Inc. (Jerry Harris), who is helping on the Swan Quarter Dike Project, to help out as construction manager on this project.

It is hoped that the project can be completed by May so it can be occupied and in use in June.

No action required.

Codification Project

On January 26, the County Attorney, Clerk to the Board and County Manager had a teleconference with an attorney from Municipal Code Corporation, which is the firm putting the County's ordinances into a County Code.

From this work, the editors will develop a proof that should be ready in April for the Commissioners to have a workshop and review. After that, the Commissioners will need to hold a public hearing if any changes (and as a precautionary measure even for just technical changes) to any land use laws. After the public hearing, the Commissioners can approve the ordinance adopting the new County Code.

The purpose of the codification project is to not change existing ordinances; just to get them in a more usable framework for the public, the courts, and the staff. However, preparation of the County Code has led to several interesting ordinances, such as the Planning Board Ordinance mentioned elsewhere in this meeting. Also, several ordinances no longer applicable (e.g. ordinance creating a human relations commission in response to a 1990's grant project) are being deleted.

No action required.

Ferry Reservations – February 16 Board Meeting

Effective January 21, 2009, the NC Department of Transportation's Ferry Division made changes to its ferry schedule through May 18, 2009. Departures from Swan Quarter are 10:00 AM and 5:00 PM. Departures from Ocracoke are 7:00 AM and 1:00 PM.

Due to the recent changes in the ferry schedule, the Board cannot arrive on Ocracoke in time for the 7:00 PM Board meeting using the 5:00 PM ferry from Swan Quarter.

Commissioner Swindell moved to change the time of the February 16 Board Meeting from 7:00 PM to 8:00 PM. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

Closed Session:

Mr. Davis moved to enter Closed Session in accordance with NCGS §143A-318.11(a)(6) to discuss personnel matters; and in accordance with NCGS §143A-318.11(a)(3) for consultation with legal counsel. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

The Commissioners entered closed session at 9:17 P.M.

Commissioner Davis moved to return from Closed Session. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, and Swindell; Nays – None; Absent or Not Voting – None.

The Commissioners re-entered regular session at 9:55 P.M.

There being no further matters to come before the Commissioners, Mr. Swindell moved to adjourn the meeting. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

The meeting adjourned at 10:00 PM.

Respectfully submitted:

Minutes approved on the _____ day of _____, 2009.

Lois Stotesberry, Clerk - Hyde County Board of Commissioners

Tom Davis, Chairman - Hyde County Board of Commissioners